

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

API TECHNOLOGIES, LLC

Plaintiff,

v.

FACEBOOK, INC., et al.

Defendants.

Civil Action No. 2:09-cv-00147

**API TECHNOLOGIES, LLC'S ANSWER TO THE
COUNTERCLAIM OF BEST BUY CO. INC.**

Plaintiff API Technologies, LLC ("API") answers the Counterclaim of Defendant Best Buy Co. Inc. ("Best Buy"), filed on July 8, 2009, by corresponding paragraph number as follows:

1. API admits that Best Buy purports to seek a declaratory judgment in its Counterclaim, but API denies that Best Buy is entitled to such a judgment. API admits that Best Buy's Counterclaim gives rise to an actual and justiciable controversy between API and Best Buy regarding the infringement and validity of the '699 Patent. Except as so admitted, the remaining allegations in paragraph 1 are denied.

2. API admits that the Court has subject matter jurisdiction over the issues raised in Best Buy's Counterclaim. API admits that it has submitted to venue in this judicial district for the purpose of the adjudication of its Original Complaint in this action and related counterclaims.

3. Admitted

4. Admitted.

FIRST COUNTERCLAIM

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 6,859,699**

5. In response to the allegations in paragraph 5 of Best Buy's Counterclaim, API incorporates by reference paragraphs 1 through 4 of this Answer as if fully set forth herein.

6. Admitted.

7. Best Buy's reference to "these allegations" in paragraph 7 of its Counterclaim is vague and therefore API lacks knowledge or information sufficient to form a belief about the truth of Best Buy's allegation that in paragraph 7 that it "[d]enies these allegations." The remaining allegations in paragraph 7 are denied.

8. Admitted.

9. Denied.

SECOND COUNTERCLAIM

DECLARATORY JUDGMENT OF INVALIDITY OF U.S. PATENT NO. 6,859,699

10. In response to the allegations in paragraph 10 of Best Buy's Counterclaim, API incorporates by reference paragraphs 1 through 9 of this Answer as if fully set forth herein.

11. Admitted.

12. Best Buy's reference to "these allegations" in paragraph 12 of its Counterclaim is vague and therefore API lacks knowledge or information sufficient to form a belief about the truth of Best Buy's allegation that in paragraph 12 that it "[d]enies these allegations." The remaining allegations in paragraph 12 are denied.

13. Admitted.

14. Denied.

PRAYER FOR RELIEF

To the extent necessary, API denies that Best Buy is entitled to the relief requested in its Prayer for Relief, or any relief whatsoever.

Dated: July 31, 2009

Respectfully submitted,

By: /s/ Marc A. Fenster
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CERTIFICATE OF SERVICE

I hereby certify that the counsel of record who are deemed to have consented to electronic service are being served on July 31, 2009 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

Dated: July 31, 2009

/s/ Marc A. Fenster
Marc A. Fenster